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SIPDIS

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SUBJECT: FEARS OF CLOSING CONGRESS FOR EARLY ELECTION

REF: A. 08 LA PAZ 2571
[B.](#) 08 LA PAZ 2543
[C.](#) 08 LA PAZ 2483
[D.](#) 08 LA PAZ 2374

Classified By: A/EcoPol Chief Brian Quigley for reasons 1.4 (b)(d)

[¶](#)1. (C) Summary: Opposition Alternate Senator Rafael Loayza (Podemos, La Paz) told PolOff he anticipated Bolivian President Evo Morales would shut down Congress sometime before mid-summer. Loayza argued that Morales will use the "inevitable" approval of a constitutional referendum January 25 to justify obliterating any possible Senate resistance to government-friendly implementing legislation needed to convoke national elections in December 2009. Loayza and some of our Santa Cruz contacts maintain Morales will invoke the "people's will" expressed in the constitutional referendum to close Congress and decree an early election in the summer, thus limiting the damage to the government's electoral chances due to an expected profound economic downturn in [¶](#)2009. Loayza also said once optimistic opposition discussions in late 2008 about uniting around a single presidential candidate collapsed in December and have been postponed until after the constitutional referendum. End Summary.

Senate to Clash on Election Implementing Legislation

[¶](#)2. (C) Opposition Alternate Senator Rafael Loayza (Podemos, La Paz) told PolOff December 31 that a general election prompted by passage of the new constitution and scheduled for December 2009 require a plethora of enabling legislation that the opposition-controlled Senate will block, at least in the forms likely to be proposed by the ruling Movement Toward Socialism (MAS) Party. Loayza said the new draft constitution is deliberately vague, which grants MAS legislators wide discretion to "fill in the blanks" with new implementing legislation and a new electoral code required under the draft constitutional for proposed national elections in December 2009.

[¶](#)3. (C) Loayza said one of the most alarming and convoluted MAS proposals making the rounds in Congress concerns the MAS interpretation of the new constitution's Article 148, which requires "proportional" representation of Senate elections

"in accordance with the law." The MAS proposes that the increase from three to four senate seats per department (state) be divided between candidates elected directly and candidates assigned winner-take-all by party list. This could mean the MAS obtains three of four seats in a department: i.e. the MAS-declared candidate would likely win one of the directly elected seats by coming in first (even with less than 50 percent of the vote against multiple opposition candidates) or second and the MAS party ticket, led by Evo Morales, could gain both "proportional" seats if it garners more than 50 percent.

Senate and Government on Electoral Collision Course

¶4. (C) Loayza said the Senate will block any MAS implementing legislation for the general elections based on "creative" interpretations of the constitution that "plainly favor the MAS." He also said the Senate would clash with the government on creating a new electoral code and assigning new borders for electoral districts, both needed for a new general election. Loayza said the current electoral distribution is based on 1976 census data, that attempts to redraw the electoral map based on the 2001 census were defeated on partisan grounds, and that the government would be sure to fight a renewed attempt to adjust the figures as the government-aligned Andean departments stood to loose and the opposition-aligned Media Luna departments, particularly Santa Cruz, stood to gain. He said applying the 2001 census would require MAS lynchpin La Paz Department to fall from 33 percent of Bolivia's electoral representation to 30 percent, losing two districts and four lower house seats in the process.

Senate, Pando in MAS Crosshairs

¶5. (C) Loayza alleged the MAS electoral legislation would target the narrow majority the opposition enjoys in the Senate. Loayza used the example of Pando, a tiny department with 34,000 eligible voters, less than a percent of Bolivia's total, but with the same Senate representation of the other eight departments (states). He alleges the MAS deliberately fomented unrest in Pando in September to justify a military siege, depose Prefect Leopoldo Fernandez, and arrest opposition-aligned leaders because of potential to swing the balance of power to the MAS in the Senate. (Note: His assessment; see disputed versions of these events in reftels b-d. End Note.) Besides disabling the opposition's ability to campaign by arresting many of its leaders, Loayza alleges the government crackdown changed the electoral map in Pando by sending between 600 and 1,500 opposition voters to Brazil seeking refuge from the arrests and importing 2,000 new security forces, which Loayza claimed were likely MAS voters from the Andes.

Morales' Excuse to Close Congress

¶6. (C) Loayza and some of our Santa Cruz contacts assert that Evo will use the perceived intransigence of the Senate as an excuse to close down Congress pending new national elections, which Morales would move up to the summer by decree. Loayza said Morales will invoke "the will of the people" expressed in the constitutional referendum as justification, but the real motive will be to minimize the damage to the MAS' electoral chances caused by an expected profoundly souring economy in 2009. "Evo knows that if he waits until December the MAS might not win enough seats in the Senate. He might even be vulnerable by then. There is a lot of time between now and December and people without jobs will be voting with their stomach. Time is not on their side." When asked about the legality of such a maneuver, Loayza said "Evo does not care about legality" and lamented that without a quorum in the Constitutional Tribunal there "can be no objections from the judiciary."

Stay Tuned for Opposition Unity...

17. (C) Loayza said talks organized by National Unity (UN) leader Samuel Doria Medina late in 2008 to unify the opposition were originally well-received by a wide variety of opposition leaders, but broke down in December "under the duress of egos." Loayza said the talks are postponed until after the January 25 referendum. He said the talks ceased being productive after discussion switched from vague agreement about the need to present single candidates in national elections to concrete proposals about how to achieve that end.

Mesa Invokes Divine Right of Polls

18. (C) One option opposition leaders discussed, according to Loayza, was simply picking a date certain and supporting whomever was highest in national polling. Loayza, an adviser to former Vice President and presidential candidate Victor Hugo Cardenas, criticized this option as destined to deadlock as "it depends on what polls you are talking about." He said the four top opposition potential contenders (Samuel Doria Medina, Victor Hugo Cardenas, former President Carlos Mesa, and former President Jorge "Tuto" Quiroga) all poll at about eight percent. He claimed Cardenas polls better than the others when pitted solely against Morales. Loayza claimed that, despite his weaker position when pitted one-on-one against Morales, Mesa demands he be the opposition candidate "by right" because of his low negatives and because he comes out on top when polled against his opposition rivals. Loayza said Mesa was the first to walk away from talks and characterized Mesa as "the problem" for opposition unity, fearing his insistence to be the opposition presidential candidate would also put plans to submit unity congressional candidates at risk.

Holes in Medina's Primary Proposal

19. (C) Loayza opposes Medina's notion of an opposition primary as "too late" and inherently flawed because "it will be open to tampering by Morales' CNE" (National Electoral Court). He suspected any CNE-organized primary would be manipulated to favor a weak "white" challenger to Morales, such Quiroga. Loayza said even if Cardenas did not win, as a long-time indigenous leader he has a better chance than any other candidate due to his ability to siphon indigenous voters from Morales and would "shatter the MAS' racial mythology." Loayza relished the idea of a debate between the two, when Cardenas could "talk circles around Morales in (native languages) Aymara and Quechua. (Note: Cardenas, among others, has criticized Morales' identification as an "indigenous president" who has no command of the Aymara language. Reftel a. End Note.)

Comment

110. (C) The only problem with opposition unity, as Loayza notes, is "all the old guys want to be the candidate, but they don't understand that is exactly what Evo wants." Unity seems to be good idea in the minds of the front runners so long as they are the chosen one. We will start putting more credence in opposition unity claims when opposition leaders start endorsing candidates outside their movements. The MAS has the momentum and this will be difficult to challenge until the opposition unites around an alternative platform and new candidates that are not inextricably and negatively linked to prior administrations. Although the souring economy presents the opposition with winning issue, it can only work significantly to their advantage if properly exploited with an alternative agenda.

111. (C) Morales and company have already announced the new constitution "will take effect" 10 days after the referendum if passed and will surely seek any avenue to quicken the pace of the "revolution." Closing congress could invoke some

international criticism, but Morales may consider this a risk worth taking, as international outrage concerning past executive attacks on the legislature and judiciary has been almost non-existent. Although still only speculation, the MAS' past heavy-handed blockades at the doors of Congress to force through controversial legislation provide some precedence for closing it down. End Comment.

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